IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 30TH MAY 2007 / 9TH JYAISHTA 1929

WP(C).No. 7573 of 2007(B)

AGAINST THE ORDER IN EP 57 2004 IN LAR.277/1983 of I ADDL.SUB COURT,ERNAKULAM

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PETITIONER:

MATHAI PAULOSE , KOTTALIL HOUSE,
PLAMUDI POST, KOTHAMANGALAM,
REPREENTED BY THE POWER OF ATTORNEY HOLDER
K.P.SUBASH, KATTALIL HOUSE, PLAMUDI POST,
KOTHAMANGALAM.

BY ADV. SMT.T.D.RAJALAKSHMI
SRI.E.R.VENKATESWARAN

RESPONDENTS:

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1. **THE STATE OF KERALA REPRESENTED BY THE DISTRICT COLLECTOR, CIVIL STATION, KAKKANAD.**

2. **THE TAHSILDAR, KANAYANNUR TALUK OFFICE, COCHIN-682 011.**

3. **THE VILLAGE OFFICER, KAKKANAD.**

BY GOVERNMENT PLEADER SMT. R. BINDU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.7573/2007 B

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE SALE CERTIFICATE ISSUED BY THE SUB COURT, ERNAKULAM IN LAR 277/83 DTD. 12/09/2002.**

EXT.P2: **COPY OF THE POSSESSION RECEIPT ISSUED IN EA 320/2002 IN EP 690/97 IN LAR 277/83 OF SUB COURT, ERNAKULAM.**

EXT.P3: **COPY OF THE PETITION FOR MUTATION OF THE PROPERTY FILED BEFORE THE 2ND RESPONDENT DTD. 19/03/2004.**

EXT.P4: **COPY OF EXECUTION PETITION NO.57/2004 IN LAR 277/83 OF SUB COURT, ERNAKULAM.**

EXT.P5; **COPY OF STATEMENT FILED BY THE DECREE HOLDER IN EP 57/04 IN LAR 277/83 OF SUB COURT, ERNAKULAM.**

EXT.P6: **COPY OFAFFIDAVIT AND EXECUTION APPLICATION NO. 606/04 IN EP NO.691/97 IN LAR 277/83 OF SUB COURT, ERNAKULAM.**

EXT.P7: **COPY OF COUNTER AFFIDAVIT FILED IN EA NO.606/04 IN EP 691/97 IN LAR 277/83 OF SUB COURT, ERNAKULAM BY THE DECREE HOLDER.**

EXT.P8: **AFFIDAVIT FILED ON BEHALF OF THE JUDGMENT DEBTOR IN EP 691 OF 97 IN LAR 277/83 OF SUB COURT, ERNAKULAM DTD. 13/08/04.**

EXT.P9; **COPY OF THE OBJECTION FILED BY THE JUDGMENT DEBTOR IN EP 691/97 IN LAR 277/83 OF SUB COURT, ERNAKULAM WITH CALCULATION STATEMENT.**

EXT.P10: **COPY OF A DIARY PROCEEDINGS DTD. 16/06/2006 IN E.P.57/2004 IN LAR 277/83 OF SUB COURT, ERNAKULAM.**

/TRUE COPY/

KSS

M.N.KRISHNAN, J

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W.P.(C) No.7573 OF 2007

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Dated this the 30th day of May, 2007

JUDGMENT

This writ petition is filed seeking to quash Ext.P10 order and also to issue a writ of mandamus directing the Sub Judge, Ernakulam to proceed with E.P.No.57 of 2004 and restore the order of attachment passed in E.A.No.394/2005 and dispose of the same on merits and for other reliefs.

2. Learned counsel for the writ petitioner submits before me that he was personally present in court and so it is not correct to hold that the decree holder and counsel were absent. Whatever it may be there are valuable contentions to be raised and decided in the execution petition as well as in the E.A.

The writ petition is therefore disposed of directing the Ist Addl.Sub Court, Ernakulam to restore E.P.No.57 of 2004 in LAR No.277/1983 and E.A.No.394 of 2005 and dispose of the matter on merits after hearing all the affected parties, as expeditiously as possible and not later than 4 months from today.

M.N.KRISHNAN, JUDGE

Cdp/-